



ANNEX M (LEGAL CONSIDERATIONS)

1. SITUATION

- a. The Influenza Pandemic Threat: Refer to Annex B (Disease Intelligence).
- b. Mission and Intent of Higher and Supporting Organizations: Refer to Base OPLAN.
- c. Environment: Refer to Annex B (Disease Intelligence).

2. MISSION.

CDC will immediately detect the onset of outbreaks with pandemic potential; assist with the containment of such outbreaks; delay the introduction and transmission of pandemic viruses in the United States; and assist SLTT health authorities in their management of an influenza pandemic within the bounds of U. S. Constitutional and statutory authority.

3. EXECUTION

a. Concept of Operations.

CDC is a component agency of the Department of Health and Human Services (HHS). As such, CDC's legal authorities are generally derived from the authorities given by statute to the HHS Secretary. The HHS Secretary may, at his discretion, delegate authority under law to CDC, unless the law prohibits such delegation. Delegations allow the HHS Secretary to convey HHS authorities to subordinate agencies, including CDC, so they may legally carry out the many activities of the Department. When such a delegation occurs, the HHS Secretary may nevertheless continue to exercise the authority because the act of delegating does not divest the authority from the HHS Secretary.

- 1) Some HHS authorities that may be exercised during an influenza pandemic are not delegated (e. g., the authority for the HHS Secretary to declare a public health emergency under Section 319(a) of the PHS Act (42 U.S.C. Section 42 U.S.C. 247d) or are delegated to specific agencies other than CDC, although CDC may have a role in the execution of such authorities. Other HHS authorities are broadly delegated to component agencies of HHS, including CDC (e.g., the authority to conduct and support research under section 301 of the PHS Act (42





U.S.C. §241)). These authorities are described in the HHS Pandemic Influenza Plan, Appendix E. Refer to <http://www.hhs.gov/pandemicflu/plan/appendixe.html>

- 2) Sections 361-369 of the PHS Act (42 U.S.C. §264-272) which have been delegated to CDC and implementing regulations (42 C.F.R. Parts 70 and 71) give CDC broad authority to prevent the introduction, transmission, and spread of communicable diseases from foreign countries into the United States or possessions and from one state or possession into another. This authority specifically permits “apprehension, detention, or conditional release” of individuals to prevent the spread of specified communicable diseases, including influenza caused by novel or emergent influenza viruses that are causing, or have the potential to cause, a pandemic. Section 361(c) provides the basis for quarantine of persons arriving from foreign countries, while Section 361(d) authorizes quarantine of persons who engage in interstate travel. Under Section 311 of the PHS Act (42 U.S.C. §243), CDC has been delegated authority to request SLTT assistance in enforcing Federal quarantines, and provide SLTT authorities assistance in enforcing their quarantines. Customs and Coast Guard officers are legally authorized to aid in the enforcement of Federal quarantines rules and regulations under Section 365(b) of the PHS Act (42 U.S.C. §268(b)). CDC has also been delegated authority to authorize the care and treatment of quarantined individuals at public or private medical or hospital facilities under Section 322(c) of the PHS Act (42 U.S.C. §249).

b. Tasks to Subordinate Organizations.

Refer to Annex C (Operations).

c. Coordinating Instructions.

Numerous other Federal and SLTT statutes may apply to specific interventions that would be implemented to control a pandemic. A SLTT’s authority to compel isolation and quarantine within its borders is derived from its inherent “police power”- the authority of a SLTT government to enact laws and promote regulations to safeguard the health, safety, and welfare of its citizens. Federal agencies that may have key roles in addressing a pandemic, such as Departments of Homeland Security, Defense, Agriculture, Interior, and State, are governed in





their actions by a wide array of other statutory guidelines. In an influenza pandemic situation, CDC will coordinate its response efforts with these Departments as well as with HHS/OS.

4. SUPPORT SERVICES

Refer to Annex I (Support Services).

5. MANAGEMENT AND COMMUNICATIONS

Refer to Annex K (Information Management).

